



QB's, BIC's Renew Firm, Broker Licenses

As a qualifying broker and/or broker-in-charge of a real estate firm, you have certain responsibilities to assure that firm and individual licenses are renewed by the June 30 deadline.

Qualifying brokers should be certain to renew both the firm license and their own. When you renew the firm license but fail to renew your personal license, the firm's license will be placed on inactive status July 1.

Since a firm on inactive status cannot have agents associated with it, broker licenses are changed to reflect their home addresses and the absence of firm affiliation. And provisional brokers are placed on inactive status.

Brokers-in-charge should verify that all licensees under their supervision have renewed between May 15 and June 30. You can accomplish this at the Commission's website, www.ncrec.state.nc.us.

The "BIC Only" tab on the website gives you access to a variety of current data on those under your supervision. To view and print the information, click
(See **Reminder** page 4)



Deadline June 30

License Renewal Begins May 15; Save Time By Renewing Online

The annual real estate license renewal period begins May 15. The Commission's website, www.ncrec.state.nc.us, will be available on that date and through the June 30 deadline for online renewing.

Login at the website and go to Renew/Reinstate and enter your license

number and PIN (personal identification number). Unless you have changed your PIN, it will be the last four digits of your Social Security number. Charge the \$40 fee using your MasterCard or Visa.

You will receive confirmation, which you can print, that your renewal is being processed by the Commission. While online, update your email, fax and residence address, if needed.

You must renew on or before the

deadline of midnight, June 30. If you renew by mail, your renewal must be

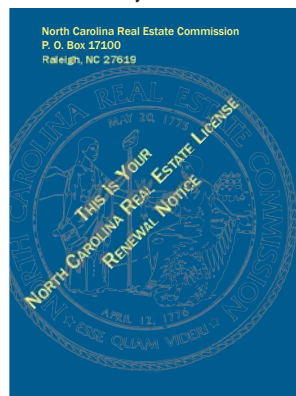
received at the Commission office on or before that date.

If you miss the deadline, your license will expire and you must pay a \$55 fee to reinstate it.

While online, check your

continuing education and postlicensing credit information to be certain they have been properly recorded. If you have not completed all your continuing education (eight hours, four of which are the *Update Course*), you may do so by the

(See **Renewal** page 4)



Watch for this postcard renewal reminder!

Commission website available for renewals beginning May 15

"Fill'er Up"

Yes, for the cost of about a tank of gasoline, you can renew your real estate broker license for another year. Did you know that your \$40 annual renewal fee is among the lowest in the country (only five states are lower)?

In fact, the national average is twice that charged in North Carolina.

Since 2001, your license re-



newal fee has increased only once (from \$35 to \$40) which is especially gratifying since the Real Estate Commission receives no financial assistance from the State.

You worked hard for your license. We are working hard to maintain, if not exceed, the level of service we provide to you and real estate consumers without increasing your fees or other costs.



To request a speaker from the Commission, please submit the "Request for Program Presenter" form available on the Commission's website, www.ncrec.state.nc.us.

People

Janet B. Thoren, Chief Deputy Legal Counsel, has been re-designated a Special Assistant United States Attorney in the Western District of North Carolina by the U. S. Department of Justice.

Bradford A. Cox has assumed the position of Information Specialist in the Administration Division. He is a graduate of North Carolina State University with a BS in Parks, Recreation and Tourism



Management.

Appearances

Miriam J. Baer, Assistant Director of Legal Services and Legal Counsel, participated in panel discussions on "short sales" at the Charlotte Regional REALTOR® Association in Mooresville and Charlotte.

Janet B. Thoren, Chief Deputy Legal Counsel, spoke to the North Carolina Conference of District Attorney's Legal Update on Mortgage Fraud in Raleigh.



165 Years of Service

Three members of the Commission recently achieved 30 years of service each and four a combined total of 75 years. Recipients of awards for service are (l. to r.) Information Services Officer Brenda H. Badger and Education/Examination Officer Anita R. Burt, both 20 years; Administration Director Mary Frances Whitley, 30 years; Commission Chairman Melvin L. "Skip" Alston; Education and Licensing Director Larry A. Outlaw and Network Administrator Vickie R. Crouse, both 30 years; Legal Counsel and Director of Legal Services Thomas R. Miller, 25 years; and Senior Consumer Protection Officer Joan H. Floyd, 10 years.



June 10
July 8
Pinehurst
August 12
September 9

All meetings, unless otherwise noted, begin at 9 a.m. and are held in Raleigh in the Commission's Conference Room at 1313 Navaho Drive (27609). Occasionally, circumstances necessitate changes in meeting times and locations.

Summary of Rule Changes Effective July 1

Following is a summary of Real Estate Commission rule changes which become effective July 1, 2009.

General Brokerage

- Require provisional brokers to have the consent of their broker-in-charge in

order to advertise any real estate brokerage service, and to include in any advertisement the name of the broker-in-charge or firm with which they are associated.

- Revise the requirements for being

reinstated as a broker-in-charge after losing broker-in-charge eligibility.

- Remove the requirement that loan commitment dates be shown in offer to purchase and sales contracts.

(See **Rule Changes**, page 4)

COURSE SCHEDULES

This schedule provides locations, dates, and times for the courses indicated through December, 2009.

Register online at the Commission's website, www.ncrec.state.nc.us.

Broker-in-Charge Course

(Two-days. Day one, 1-5 p.m.; Day two, 8:30-5:30 p.m.)

Asheville	July 29, 30 September 30, October 1 December 2, 3	Holiday Inn East/Blue Ridge Parkway
Charlotte	June 8, 9 July 27, 28 August 25, 26 September 15, 16 October 26, 27 December 7, 8	Holiday Inn Airport
Greensboro	August 19, 20 November 17, 18	Clarion Hotel (formerly the Radisson)
Kill Devil Hills	September (see website for dates)	Ramada Plaza Resort
Raleigh	June 2, 3 July 7, 8 August 5, 6 September 8, 9 October (see website for dates) November 9, 10 December 14, 15	McKimmon Conference Center
Wilmington	July 14, 15 October 20, 21	Coastline Inn & Convention Center

Basic Trust Account Procedures

Asheville	September 29, 1 - 5 p.m.	Holiday Inn East/Blue Ridge Parkway
Charlotte	July 28, 9 a.m. - 1 p.m. December 8, 9 a.m. - 1 p.m.	Holiday Inn Airport
Raleigh	June 1, 1 - 5 p.m. August 4, 1 - 5 p.m. November 3, 1 - 5 p.m.	McKimmon Conference Center
Wilmington	October 21, 2009, 9 a.m. - 1 p.m.	Coastline Inn & Convention Center

Confirm dates and times at the Commission website.

Rule Revisions Permit Most BIC's To Re-designate Before Education

Beginning July 1, most **former** brokers-in-charge can be re-designated as brokers-in-charge without first completing the *Broker-in-Charge Course*; however, within 120 days following their re-designation they must complete either the 12-hour *BIC Course* or, if they have completed the *BIC Course* within the past three years, the 4-hour *Broker-in-Charge Annual Review Course*.

Currently, a broker-in-charge must complete the course **prior** to re-designation.

The Commission found that when BICs lose their BIC status (usually due to their failure to complete all required CE or to renew their licenses on time), the offices they supervise are effectively shut down until the broker can take

the *BIC Course*. This may require a few weeks' wait and possibly considerable travel.

The revised rule allows the former brokers-in-charge to re-designate themselves immediately after reinstating the expired licenses (if applicable), satisfying any CE deficiency and re-activating their licenses. They then have 120 days to complete the *BIC Course* (or, if eligible, the *BICAR Course*).

Of course, they must also be able to certify on a new Broker-in-Charge Declaration that they have two years' full-time brokerage experience within the past five years. Remember, always check with the Commission to verify the specific requirements for your particular situation!

Brokers-in-charge who do not satisfy

their education requirement within 120 days following designation or re-designation are removed as BIC and must complete the 12-hour *BIC Course* **prior** to requesting to again be designated, even if the course was completed within the preceding three years.

A related rule revision reserves the *BI-CAR Course* exclusively for currently designated BIC's and brokers who are "BIC eligible" (former BIC's who have continuously maintained an active license and taken the *BICAR Course* each year). Other brokers attending the *BICAR Course* will not receive any CE elective credit for it. A Certificate of Eligibility (verification of BIC status) can be obtained from the Commission's website.

A further rule revision exempts from the broker-in-charge requirement sole proprietor brokers who hold tenant security deposits only in a trust account for properties they personally own.

Rule Changes

(Continued from page three)

Examinations

- Authorize the Commission to discipline brokers who cheated on or misused the licensing examination where the cheating or misuse did not come to the attention of the Commission until after the person was licensed.

Licensing

- Eliminate language in connection with firm activation referring to a "form provided by the Commission" when the Commission does not provide or require such a form.

- Address the requirements for reinstating licenses "cancelled" when provisional brokers fail to complete their postlicensing education.

- Clarify that the license issuance date will not be changed for licenses reinstated within six months following their expiration.

- Provide that a broker whose license has been suspended by the Commission shall have sixty days from the end of the period of license suspension to pay any license fees that may have accrued during the period of suspension, and that

failure to pay within that period will result in loss of licensure.

- Require brokers and license applicants to report to the Commission any "notarial commission sanctions" they have received.

Postlicensing Education

- Permit the Commission to deny or withdraw postlicensing course credit to any broker who attends more than twenty-one classroom hours of postlicensing instruction in any given seven-day period.

Renewal

(Continued from page one)

June 10 deadline. There are no CE classes after that date until July. Incomplete CE results in the change of status of an "active" license to "inactive" on July 1.

Allow 15 days following a class for any credits to be reflected. The CE credits displayed on the label of this *Real Estate Bulletin* are those posted about two to three weeks before its arrival. Those posted on the website will be more current.

Reminder

(Continued from page one)

on the tab and enter your license number and PIN (the last four digits of your Social Security number unless you have changed it).

In addition to your personal information), you will find the following:

- A listing of all licensees which, according to Commission records, are affiliated with you or under your supervision.
- The "level of their licenses – "PB" (Provisional Broker), or "B" (Broker).
- Their license renewal date.
- Their continuing education and postlicensing credits (if needed).

If any of your agents have not renewed their licenses, you may renew them.

This is important because you, as broker-in-charge, are subject to disciplinary action if a broker at your office continues to list, sell, etc. real estate after his or her license is expired.



In today's economic climate, you may encounter sellers who owe more for their property than it is worth, i.e., they're "upside down" or "under water" on their mortgage. They may have more than one mortgage, a home equity loan, outstanding judgments and tax liens that must be dealt with before selling - one or all of which exceed the value of the property.

For sellers in financial distress, a "short sale" may help. A short sale occurs when a lender accepts a discounted payoff of the loan balance and gives up its interest in the property. In some cases, the seller is relieved of further liability; in others, the seller may still be indebted to the lender for the balance.

Lenders may agree to "short sales" to avoid the expense of a foreclosure, but often impose certain conditions:

- **Loan status:** Usually, the loan must be in default or imminent default; sometimes being "upside down" is enough.
- **Hardship:** Sellers must demonstrate that circumstances beyond their control prevent them from making their mortgage payments.
- **Financial Status:** Sellers must demonstrate insufficient resources to cover the loan amount.
- **Loan Fraud:** There must be no evidence of fraud in connection with the original loan. The lender is more likely to suspect fraud if default occurs within the first 12 months of the loan term.
- **Property Value:** The property must be appraised to determine the amount the lender will accept.

Although the buyer and seller have a contract, the seller's lender is in control in a short sale and can "just say no" to prevent it. Therefore, closing the sale is more uncertain than in ordinary transactions.

Listing Agent Responsibilities

Before you list a property, determine whether there is any possible need for a short sale, and be prepared to advise the seller about the process and consequences of one. While better than foreclosure, the seller's credit record will suffer. The process can take more time and the lender can simply stop it at any time. Suggest

that the seller consider other options, including loan modification, refinancing, giving the lender a deed in lieu of foreclosure, or allowing foreclosure to occur. Recommend, prior to sale, consulting with the seller's attorney and financial and tax experts.

Consider the list price carefully: it cannot be so low that the seller's lender will reject it or it so high that buyers will lack interest.

Remember that because funds are "short," the seller may not be able at closing to pay third parties. Payments to lien-holders and other service providers, including yourself and maybe another broker, must be addressed. While foreclosure may wipe out some liens, a short sale requires negotiation with all lien-holders.

A short sale is a material fact. As listing broker, **you must disclose this to the buyer and buyer agent.**

Short Sale Addendum - Listing Contract

Address in the listing contract a seller attempt at a short sale. The North Carolina Association of REALTORS® has developed a new *Short Sale Addendum to Exclusive Right to Sell Listing Agreement* which:

- requires the seller to work to obtain lender approval, including providing necessary financial information; and
- allows the listing agency to market the property as a short sale or pre-foreclosure property, to continue marketing while it is under contract and the lender is considering contract approval, and to disclose information to the lender and buyer agent.

Buyer Agent Responsibilities

When looking at properties and before making an offer, try to determine whether the property may be a short sale.

The listing agent should disclose it, but if you have any doubt, ask for information about the status of the seller's loan, the possibility of a foreclosure action, and the seller's ability to convey the property free and clear of liens.

Be particularly attentive to property value, especially in a "soft" or declining market. An asking price below the seller's loan pay-off amount does not mean the property is worth it. Buyer agents should encourage clients to inspect the property to determine its condition, since a seller may not be financially able to make any repairs.

Some lenders in a short sale will not consider an offer until the buyer and seller have signed a contract. Make sure the buyer understands that once the contract is submitted, the lender may be slow to make a decision, require changes before approval, or even undertake foreclosure while considering it.

Short Sale Addendum - Offer

The North Carolina Association of REALTORS® has developed a *Short Sale Addendum* to the standard North Carolina *Offer to Purchase and Contract*. It includes contingencies that allow either party to cancel the deal if the lender rejects the short sale and the buyer to terminate the contract **at any time prior the lender's approval** by written notice to the seller. In either event, the buyer is entitled to the return of earnest money.

The addendum permits the seller to continue marketing the property and to communicate new offers to the lender. If those offers are higher than the contract price, the lender may reject the short sale contract in favor of a new offer or foreclose instead.

In Sum

Lenders are increasingly more likely to entertain the possibility of a short sale. However, because much of the decision-making rests with the seller's lender, such transactions entail significant risk, particularly for the buyer. Brokers should be certain to disclose to the buyer prior to contract if a short sale is necessary to accomplish the deal, use the standard addenda or have contract language drafted to specifically address the short sale, and allow plenty of time for the transaction to close.



Educators Conference Draws Participants from Across State

By Pamela R. Rorie
Continuing Education Officer

An eager crowd of real estate instructors, school officials and publisher representatives attended the 2009 Real Estate Educators Conference held in Raleigh on April 14, 2009. The Commission-sponsored meeting drew 216 participants from across the state for this year's one-day event. Director of Education and Licensing Larry Outlaw kicked-off the conference with a discussion of the state of real estate education and licensing and invited educators to offer suggestions as to the optimal means of delivering needed instruction to licensees in specialty areas of real estate brokerage.

Lisa McQuillen, Education and Licensing Officer, followed with a Prelicensing and Postlicensing Education "update" session in which she explained proposed rule revisions and recognized prelicensing schools and instructors who had exhibited outstanding performance.

The highlight of the morning's program was a "tag-team" presentation by Thomas Miller, Special Deputy Attorney General/Director of Legal Services, and Miriam Baer, Assistant Director of Legal Services of the NC Real Estate Commission.

They addressed such matters as misrepresentation – which is the cause of most consumer complaints, required disclosure of agent bonuses, real estate lotteries/drawings, embezzlement, and other topics as requested by the attentive crowd.

During the luncheon, the North Carolina Real Estate Educators Association (NCREEA) held its spring meeting and annual awardS presentations led by President John Carroll.

The Association presented its "Program of the Year" award to **Sheila Lowery** for her Continuing Education elective course, *Alternative 2 – Made Easy*, and its "Educator of the Year" award to **Dana Rhodes**, DREI, of the Mingle School of

Real Estate.

Also during the luncheon, Commission Chairperson Melvin "Skip" Alston presented the Commission's Billie J. Mercer Excellence in Education Award to NCREEA's Educator of the Year, **Dana Rhodes**. This award is presented annually in memory of former Commission member and chairperson, Billie Mercer, who was especially dedicated to

the cause of real estate education. The name of each year's award winner is engraved on the Mercer Award cup that is displayed in the Commission's lobby. Commission Vice Chairperson Marsha Jordan was also in attendance for the presentation.

Following the luncheon, a brief Continuing Education "update" session was conducted by Continuing Education Officer, Pamela Rorie, after which participants were treated to a lively presentation by Steve Richman of Genworth Mortgage Insurance which focused on the positives of the current economy and the best sources of information regarding new loan programs and guidelines.

The conference finale was presented by Deborah Carpenter, DREI, and Brian Pate who provided useful and creative techniques for motivating and engaging real estate students.



Dana Rhodes receives the 2009 Billie J. Mercer Excellence in Education Award from Commission Chairman Melvin L. "Skip" Alston.



Miriam J. Baer, Assistant Director of Legal Services and Legal Counsel for the Commission, at the podium joined with Thomas R. Miller (seated right), Director of Legal Services and Legal Counsel, to present the "Legal Panel Q&A Session" at the 2009 Educators Conference.

Be Wary of Performing "Broker Price Opinions!"

The Commission has noted an increasing number of reports of brokers providing, *for a fee*, a "broker price opinion" (BPO) for a party who is not a client or potential client of the broker.

The downturn in the real estate market has apparently resulted in more demand for informal estimates of the most probable sale/purchase prices for properties that are less expensive than a full appraisal.

Brokers may be requested by lenders, loan servicers, potential investors or others to provide this service for a fee, or brokers may simply be seeking alternative sources of income in a slow market.

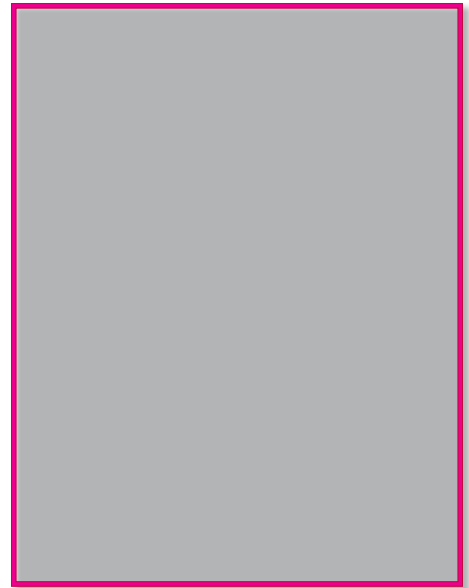
Brokers should remember that the North Carolina Appraiser Act requires any analysis, opinion or conclusion as to the value of real estate performed for compensation to be performed by a licensed or certified appraiser.

However, the statute does provide a limited exception to this requirement that *permits real estate brokers to perform a "comparative market analysis" for compensation ONLY for prospective or actual brokerage clients or for real property involved in an employee relocation program.*

A "comparative market analysis" (CMA) is defined as "the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property by a licensed real estate broker."

A "broker price opinion" (BPO) that is based on recent sales of comparable properties is, therefore, a CMA, and may be performed for a fee only as noted above.

The Real Estate Commission considers the performance by a broker of a BPO for compensation in violation of the Appraiser Act to also constitute a violation of the Real Estate License Law.



Agency Disclosure, "Due Diligence" Topics in 2009-10 Update Course

Discussion of "due diligence" concepts in sales transactions and agency disclosure and agreements will be the main topics of the *2009-2010 Update Course*.

Exercising "due diligence" in sales transactions protects both sellers and buyers and involves careful attention to an array of matters ranging from the preparation and processing of contracts and adequate property inspections to complete and accurate closing statements.

Compliance with Commission rules relating to agency disclosure and agreements will focus on person-to-person contact versus email or telephone contact, soliciting, and forming relationships through a virtual office website (VOW).

In addition, the course will review changes in selected transactional forms and Commission rules, requirements to keep a current and active license, real

estate raffles (illegal in North Carolina), and rebates to buyers.

Consideration is also being given to including some instruction on topics of particular interest to brokers involved in

Dual and Designated Agency Among 2009-10 BICAR Topics

The 2009-10 *Broker-in-Charge Annual Review* course will cover dual and designated agency, compensation issues, safeguarding trust accounts, and recent changes in broker-in-charge qualification and eligibility requirements.

Expanding upon discussion in the 2007-08 BICAR course, the course will address in greater detail the differences in practicing dual agency as "traditional" dual agents versus "designated" dual agents and the underlying authority and general expectations in practicing each

residential leasing and/or property management.

All licensees must complete the four-hour *Update Course* in each license year as part of the eight-hour continuing education requirement. Course locations and times are available at the Commission's website, www.ncrec.state.nc.us.

including confidentiality issues.

Compensation issues involve how the lack of an active license may affect payment, who may be paid and by whom, referral fees, "bird-dog" fees, finder fees and other incentives, and the effect of a firm license lapse on affiliated brokers' entitlement to compensation.

All BICs must take the BICAR course during the first full license period following initial designation and each license period thereafter.

Free Publications**Quantity**Questions and Answers on:

Fair Housing _____

Tenant Security Deposits _____

Condos and Townhouses _____

Residential Subdivisions and Planned Communities _____

Purchasing Coastal Real Estate in North Carolina _____

Renting Residential Real Estate _____

Trato Con Agentes de Bienes Raíces (Working With Real Estate Agents) _____

Preguntas y Respuestas sobre:
(Questions and Answers On:)

Vivienda Justa (Fair Housing) _____

El Depósito de Seguridad del Inquilino (Tenant Security Deposits) _____

Alquiler de Inmuebles para Viviendo (Renting Residential Real Estate) _____

Real Estate Licensing in North Carolina (Contains license application) _____

Residential Property Disclosure Statement (Available online) _____

Purchase Publications**Quantity Totals**

Residential Square Footage

Guidelines

(\$.65 per copy) _____ \$

Working With Real Estate Agents

(\$.25 per copy) _____ \$

Questions and Answers on:

Home Inspections

(\$.25 per copy) _____ \$

Earnest Money Deposits

(\$.25 per copy) _____ \$

Real Estate Closings

(\$.25 per copy) _____ \$

Offer and Acceptance

(\$.25 per copy) _____ \$

Owning Vacation Rental Property

(\$.25 per copy) _____ \$

Broker-in-Charge Guide

(\$10 per copy) _____ \$

North Carolina Real Estate License Law and Commission Rules

(\$3.00 per copy) _____ \$

Real Estate Agent Safety Guide

(\$.25 per copy) _____ \$

Amount Enclosed _____ \$

How To Order:**Online:** www.ncrec.state.nc.us**Mail:** NC Real Estate Commission, ATTN: Publications,
P. O. Box 17100, Raleigh, NC 27619-7100**Fax:** 1-919-877-4227**This form for free
publications only.**

NAME _____

ADDRESS _____

CITY/STATE/ZIP _____

Telephone _____ Email _____

**Please allow 7 days from
receipt of order for delivery.****How To Order:**Mail or fax this form. Credit card: MasterCard or Visa only.
Please do not remit cash.**Online:** www.ncrec.state.nc.us

Select Publications on the Home page.

Fax: 1-866-867-3746**Mail to:** Commission Publications, P. O. Box 28151,
Raleigh, NC 27611**This form for purchasing
publications only.**

NAME _____

ADDRESS _____

CITY/STATE/ZIP _____

Telephone _____ Email _____

☐

MasterCard

☐

Visa

--	--	--	--

Expiration Date

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Credit card orders must be a minimum of \$1.00.

Signature: _____

Please allow 7 days from receipt of payment for delivery.

AUDITOR'S CORNER



What do I do now? Help!

By Emmet R. Wood, Director, Audits and Investigations

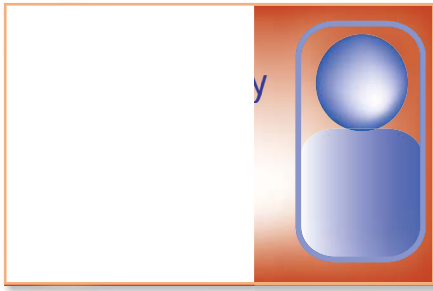
As broker-in-charge of a real estate firm, you have no shortage of things to do. And it may be that you are so busy, some never get quite the attention they deserve – like your trust accounting.

It could be that you believe your bookkeeper to be experienced and competent and therefore does not require much supervision. Perhaps the bookkeeper worked for another firm and came with good references or is a relative and, therefore, “must” be trustworthy.

But, when you finally do get around to looking at the trust account books, you discover important omissions. If that proves to be the case, here are suggestions about how to make corrections:

- If the trust account reconciliations are not current,
 - Ascertain when the last bank reconciliation and trial balance were prepared that balanced with each other. This will establish a starting point to catch up the trust account bookkeeping.
 - From your starting point,
 - Prepare bank reconciliations and trial balances to current.
 - Have someone other than the trust account bookkeeper do this work. You may want to call in an independent accountant outside of your real estate firm to perform this work. (Usually when a bookkeeper is not preparing trust account bank reconciliations, there is a reason. Most likely, the bookkeeper had trouble getting the books to balance and was not able to figure out why they didn't.
- If there are trust account shortages in a rental management business and you cannot fund them because of their size (most likely, in this case, the bank reconciliations have not been done for years),
 - Segregate future collections of trust monies (rents and security deposits) from the old trust funds by opening a new trust account to deposit incoming rents and security deposits.
 - Prepare trust account books (journal, ledgers, etc) and reconciliations on the new trust account in compliance with the Commission Rules and Trust Account Guidelines. If you are using software to maintain the trust account records, contact software support for assistance in setting up the trust account books.
 - By doing this, you are not commingling the old tainted trust funds with incoming trust funds.
 - Contact the Real Estate Commission to report your problem.

As the broker-in-charge, you are responsible for the maintenance of the firm's trust accounts. Don't ignore your trust account. It can cost you your real estate license and your livelihood. If your trust account reconciliations are not done, take action now. Don't wake up and find a large shortage in the trust account that you cannot fund.



Penalties for violations of the Real Estate Law and Commission rules vary depending upon the particular facts and circumstances present in each case. Due to space limitations in the Bulletin, a complete description of such facts cannot be reported in the following Disciplinary Action summaries.

PIERCE P. BARDEN (Wilmington) – By Consent, the Commission reprimanded Mr. Barden effective April 1, 2009. The Commission found that Mr. Barden, a broker associate with a real estate brokerage firm, acted as a buyer or dual agent in three transactions in which he sold lots in an unapproved subdivision. The Commission also found that Mr. Barden drafted addenda between the buyers and sellers in some of these transactions without first being licensed by the North Carolina State Bar as an attorney.

DANIEL G. BARBER (Wilmington) – By Consent, the Commission reprimanded Mr. Barber effective April 1, 2009. The Commission found that Mr. Barber, in late 2004 or early 2005, acted as a buyer or a dual agent in six transactions in which he sold lots in an unapproved subdivision. The Commission also found that Mr. Barber drafted addenda between the buyers and sellers in some of these transactions without first being licensed by the North Carolina State Bar as an attorney.

CHRISTOPHER DIXON BELL (Raleigh) – By Consent, the Commission revoked the broker license of Mr. Bell effective February 11, 2009. The Commission found that Mr. Bell failed to disclose to lenders in several transactions that he reimbursed buyers for their costs and expenses in several transactions by making payments to the buyers directly and outside the closings. The Commission also found that Mr. Bell allowed the HUD closing statements to show that the buyers were paying their costs when in fact they were not.

DEBORAH BIGBY-OBOMANU (Durham) – The Commission revoked the broker license of Ms. Bigby-Obomanu effective January 21, 2009. The Commission found that Ms. Bigby-



Obomanu offered to represent buyers as a buyer agent in the purchase of a new home, but failed by the time of making an offer to purchase to have the buyers complete a Buyers Agency Agreement and forged the buyers' signatures on an agreement form. The Commission also found that Ms. Bigby-Obomanu falsely represented to the buyers that she would rebate \$2,500 of her commission to them.

DAVID BORK (Boone) – By Consent, the Commission suspended the broker license of Mr. Bork for a period of one year effective February 1, 2009. The Commission found that Mr. Bork, broker-in-charge of his own licensed real estate firm and project manager and subcontractor for the developer/owner of four lots on which a new construction home had been built, failed to account to a buyer who contracted to purchase the lots for earnest money and other deposits. The Commission also found that

Mr. Bork transferred these trust monies from his trust account to his operating account, thereby converting the funds to his own use. The Commission noted that the parties eventually terminated the contract and Mr. Bork promptly refunded the buyer's earnest money deposit and other payments.

CHAKRABORTY, INC. (Raleigh) – By Consent, the Commission revoked the firm license of Chakraborty, Inc., effective February 11, 2009. The Commission found that Chakraborty, Inc., failed to enter into a written agreement to list and market new construction homes with a separate company which it's qualifying broker co-owned with a builder. The Commission also found that Chakraborty, Inc., failed to deposit in a trust or escrow account more than \$60,000 received as earnest money deposits and failed to account for the funds and to maintain adequate records relating to them.

CHAKRABORTY, MIHIR (Durham) – By Consent, the Commission revoked the broker license of Mr. Chakraborty effective February 11, 2009. The Commission found that Mr. Chakraborty failed to enter into a written agreement to list and market new construction homes with a separate company which he co-owned with a builder. The Commission also found that Mr. Chakraborty failed to deposit in a trust or escrow account more than \$60,000 received as earnest money deposits and failed to account for the funds and to maintain adequate records relating to them.

(See **Disciplinary Action**, page 12)

DISCIPLINARY ACTION

(Continued from page 11)

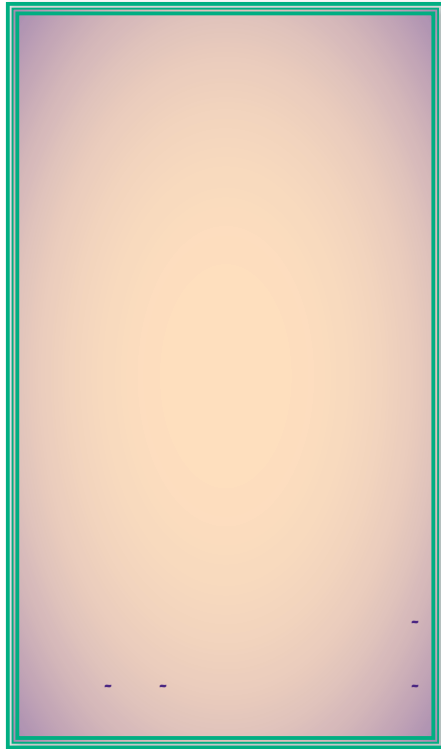
CHRISTINA H. CLARK (Charlotte) – By Consent, the Commission permanently revoked the broker license of Ms. Clark effective April 1, 2009. The Commission found that Ms. Clark pled guilty in U. S. District Court to two counts of mortgage fraud conspiracy and two counts of money laundering conspiracy involving a series of real estate transactions.

DAVID DRYE COMPANY, LLC (Concord) – By Consent, the Commission reprimanded David Drye Company effective February 11, 2009. The Commission found that David Drye Company, acting as brokers and rental agents for residential rental properties, failed to account for and promptly remit approximately \$7,000 in tenant security deposits to another brokerage firm to which apartments had been transferred by the apartments' management. The Commission noted that, upon its inquiry, David Drye Company accounted for and remitted the money and there is no evidence that David Drye Company misappropriated the funds of others or that any person suffered damage or injury as a result of its conduct.

JEFFRIE PENDERGRASS DECoux (Knightdale) – The Commission accepted the two-year voluntary surrender of the broker license of Ms. DeCoux effective March 1, 2009. The Commission dismissed without prejudice allegations that Ms. DeCoux had violated the Real Estate License Law and Commission rules. Ms. DeCoux neither admitted nor denied misconduct.

JOHN DOWDY (Fayetteville) – By Consent, the Commission suspended the broker license of Mr. Dowdy for 90 days effective January 1, 2008. The Commission then stayed the suspension for a probationary period of one year. The Commission found that Mr. Dowdy, as an agent and broker for owners of 500 rental properties, was responsible for posting and balancing

errors in trust account records resulting in liabilities exceeding funds on deposit. The Commission noted that Mr. Dowdy undertook to correct the bookkeeping errors and to restore the shortfall, that none of the clients lost money or were inconvenienced as a result, and that the Commission's audit revealed no defalcation of funds.



NATHALIE HENRIETTE DUEZ (Wrightsville Beach) – By Consent, the Commission suspended the broker license of Ms. Duez for a period of two years effective April 16, 2009. Three months of the suspension are active with the remainder stayed for a probationary term of 21 months. The Commission found that Ms. Duez was convicted of *Driving While Impaired* and was placed on 24 months' supervised probation following a seven-day term of confinement in the county jail and that Ms. Duez failed to respond to letters of inquiry from the Commission concerning her conviction.

DENNIS FESSEL (Charlotte) – By Consent, the Commission revoked the broker license of Mr. Fessel effective May 1, 2009. The Commission

found that Mr. Fessel pled guilty to and was convicted of the misdemeanor offense of "secret peeping" in 2008.

JOHN M. FOSTER (Henderson) – By Consent, the Commission suspended the broker license of Mr. Foster for a period of six months effective May 1, 2009. The Commission then stayed the suspension under certain conditions. The Commission found that Mr. Foster sold a residential property without properly recording on the closing statement that he loaned the buyer a portion of the down payment and paid an unlicensed salesman for procuring the buyer for the property. The Commission noted that Mr. Foster subsequently forgave the debt and repaid the money he had received against it.

PAULA L. K. GARCIA (Fayetteville) – By Consent, the Commission suspended the broker license of Ms. Garcia for 90 days effective January 1, 2008. The Commission then stayed the suspension for a probationary period of one year. The Commission found that Ms. Garcia, as an agent and broker for owners of 500 rental properties, was responsible for posting and balancing errors in the trust account records resulting in liabilities exceeding funds on deposit. The Commission noted that Ms. Garcia undertook to correct the bookkeeping errors and to restore the shortfall, that none of the clients lost money or were inconvenienced as a result, and that the Commission's audit revealed no defalcations of funds.

WAYNE H. HANKINS (Raleigh) – By Consent, the Commission reprimanded Mr. Hankins effective April 1, 2009. The Commission found that Mr. Hankins, broker-in-charge of a real estate brokerage firm, served in 2006 as a buyer agent through a provisional broker and another broker not yet affiliated with the firm and failed to supervise the provisional broker, who failed to confirm that the buyer received all reports related to structural inspections of the home, which developed major interior
(See **Disciplinary Action**, page 13)

DISCIPLINARY ACTION

(Continued from page 12)

and exterior structural problems after the sale.

SCOTT F. HOOKS (Cornelius) – By Consent, the Commission reprimanded Mr. Hooks effective February 11, 2009. The Commission found that Mr. Hooks, broker-in-charge of a company which acted as broker and rental agent for residential rental properties, did not adequately supervise the firm's brokerage business, including its property management trust accounts. The Commission noted that, upon its inquiry, the firm accounted for and remitted the money entrusted to it and that there was no evidence that Mr. Hooks misappropriated any funds of others or that any person suffered damage or injury.

JOHN M. FOSTER HOMES, INC. (Henderson) – By Consent, the Commission suspended the firm license of John M. Foster Homes for a period of six months effective May 1, 2009. The Commission then stayed the suspension under certain conditions. The Commission found that John M. Foster Homes sold a residential property without properly recording on the closing statement that Mr. Foster loaned the buyer a portion of the down payment and paid an unlicensed salesman for procuring the buyer for the property. The Commission noted that Mr. Foster subsequently forgave the debt and repaid the money he had received against it.

M. TIMOTHY LEADBETTER (Charlotte) – By Consent, the Commission permanently revoked the broker license of Mr. Leadbetter effective March 31, 2009. The Commission found that Mr. Leadbetter, broker-in-charge of a real estate brokerage firm, acted as buyer agent in numerous transactions in which he promised buyer rebates outside closing and received commissions and bonuses on closing statements that he rebated to buyers outside closing without disclosure to the lender in the transactions.

JEFFREY A. LEE (Supply) – By Consent, the Commission revoked the broker license of Mr. Lee effective February 25, 2009. The Commission found that Mr. Lee failed to disclose on his 2002 application for license reinstatement certain misdemeanor convictions relating to his failure to pay income taxes. The Commission also found that

Receive Credit Where and When Credit is Due!

When continuing education sponsors fail to report credits to the Commission in a timely manner, licensees may find themselves on Inactive Status on July 1.

You can avoid this problem by going online to the Commission website, www.ncrec.state.nc.us, to verify your CE credits.

Similarly, if you completed your CE online, verify that your sponsor submitted your affidavit to the Commission in time for your CE record to be updated.

Mr. Lee failed to make his trust account records available for inspection by the Commission upon request.

JOHN E. LITTLEFIELD (Concord) – By Consent, the Commission reprimanded Mr. Littlefield effective February 11, 2009. The Commission found that Mr. Littlefield, who oversaw the rental brokerage business of a real estate firm, failed to account for and promptly remit \$7,000 in tenant security deposits to another brokerage firm to which apartments had been transferred by the apartments' management. The Commission noted that, upon its inquiry, the firm accounted for and remitted the money and there was no evidence that Mr. Littlefield misappropriated any funds of others or that any person suffered damage or injury.

BRIAN ANDREW MCCORKLE (Wilmington) – The Commission accepted the voluntary surrender of the broker license of Mr. McCorkle for a period of two years effective February 11, 2009. The Commission dismissed without prejudice allegations that Mr. McCorkle violated provisions of the Real Estate License Law and Commission rules. Mr. McCorkle neither admitted nor denied misconduct.

DANA ELKIN MILLS (Franklin) – By Consent, the Commission suspended the broker license of Ms. Mills for a period of one year effective March 1, 2009. Two months of the suspension were active with the remainder stayed and Ms. Mills placed on probation for the remainder of the suspension period. The Commission found that Ms. Mills disclosed several criminal convictions on her 2005 application for licensure but failed to disclose a 1994 federal criminal conviction of *Possession of Methamphetamine, Schedule II*.

JAMES C. PATE (Fayetteville) – By Consent, the Commission suspended the broker license of Mr. Pate for a period of six months effective April 1, 2009. One month of the suspension was active with the remainder stayed for a probationary period of five months. The Commission found that Mr. Pate timely reported to the Commission that he was disciplined by the North Carolina Licensing Board for General Contractors for not holding a general contractor's license at the time he obtained building permits in the name of and without the knowledge of a properly licensed contracting company.

BILLY R. POYTHRESS (Wilson) – By Consent, the Commission revoked the broker license of Mr. Poythress effective May 1, 2009. The Commission found that Mr. Poythress, as broker-in-charge of a real estate brokerage firm, failed to adequately supervise an unlicensed employee who misappropriated approximately \$340,000 from the firm's trust account and failed to adequately
(See **Disciplinary Action**, page 14)

DISCIPLINARY ACTION

(Continued from page 13)

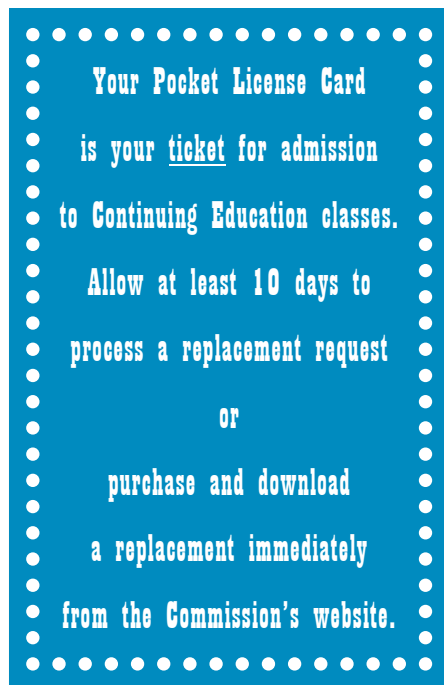
review the trust account books and records of the firm.

JAMES A. PRIDGEN (Candler) – By Consent, the Commission revoked the broker license of Mr. Pridgen effective April 16, 2009. The Commission found that Mr. Pridgen induced timeshare owners in numerous transactions to convey their interests with the promise of payment and then, in some cases, failed to make payments to the sellers. The Commission also found that, in other transactions, Mr. Pridgen induced purchasers to pay money for timeshare interests and then, in some cases, did not transfer or procure timeshares for the purchasers.

SHERRI J. PRIDGEN (Carolina Beach) – By Consent, the Commission suspended the broker license of Ms. Pridgen for a period of one year effective December 1, 2008. Three months of the suspension were active with the remainder stayed for a probationary period of 20 months. The Commission found that Ms. Pridgen, listed and sold 15 acres of vacant land to Buyer A, and, before closing, acted as dual agent in the sale by Buyer A of 25 lots at \$75,000 each to be developed on the property to Buyer B. Ms. Pridgen then listed the 25 lots for Buyer B at \$150,000 each. The Commission also found that Ms. Pridgen failed to obtain agency agreements, and drafted addenda to contracts without first being licensed to practice law.

R. E. TOWNSEND & CO. (Wilson) – By Consent, the Commission revoked the firm license of R. E. Townsend & Co. effective May 1, 2009. The Commission found that R. E. Townsend & Co. failed to safeguard the funds of others it held in trust and failed to maintain its trust account records as required such that an unlicensed employee misappropriated approximately \$340,000 from the firm's trust account.

VALERIE PAULETTE RICKS (BAKER) (Selma) – The Commission accepted the permanent voluntary surrender of the broker license of Ms. Ricks effective February 28, 2009. The Commission dismissed without prejudice allegations that Ms. Ricks violated provisions of the Real Estate License Law and Commission rules. Ms. Ricks denied misconduct.



JOSE C. RODRIGUEZ (Winston-Salem) – The Commission revoked the broker license of Mr. Rodriguez effective March 15, 2009. The Commission found that Mr. Rodriguez, acting as a buyer's agent in negotiating the purchase of a residential property, failed to account for a \$1,000 earnest money deposit from the buyers and failed to remit the money to the buyers promptly when the negotiations failed. The Commission also found that Mr. Rodriguez failed to maintain the buyer's deposit in a trust or escrow account. Finally, the Commission found that Mr. Rodriguez endorsed a refund check made out to the buyers without their authority and deposited the refund in his personal account.

ROSEWOOD REALTY, INC. (Fayetteville) – By Consent, the Commission revoked the firm license of

Rosewood Realty effective August 28, 2008. The Commission found that Rosewood Realty, acting as a buyer agent, received \$138,000 from a buyer as purchase money for a house and lot, did not maintain the money in a trust account, and was unable to account for or remit the money when the buyer's transaction closed. The Commission also found that Rosewood Realty's qualifying broker and broker-in-charge converted a significant portion of the money to his own use and fabricated bank statements and other records of his trust account transactions to conceal his conversion of the money from the Commission.

JENINE G. SCRUGGS (Southport) – By Consent, the Commission revoked the broker license of Ms. Scruggs effective February 11, 2009. The Commission found that Ms. Scruggs, as broker-in-charge of a real estate brokerage firm in 2005 and 2006, failed to review trust account records, allowing a broker associated with the firm to embezzle approximately \$10,000. The Commission also found that in 2006 Ms. Scruggs opened a sole proprietorship, declared herself to be broker-in-charge, and failed to maintain trust account records in accordance with Commission rules, resulting in repeated delays in owners' receipt of rental proceeds.

JASON A. SIRMON (Cornelius) – By Consent, the Commission suspended the broker license of Mr. Sirmon for a period of six months effective April 1, 2009. The Commission then stayed the suspension for a probationary period of six months. The Commission found that Mr. Sirmon, broker-in-charge of a real estate brokerage firm office, failed to ensure that all parties under his supervision representing the buyer of a property listed by another office of the firm received clear communication of all surveys and drawings showing that a right-of-way widening project would take away a portion of the property.

(See *Disciplinary Action*, page 15)

DISCIPLINARY ACTION

(Continued from page 14)

REBECCA J. SMITH (Carolina Beach) – By Consent, the Commission reprimanded Ms. Smith effective April 1, 2009. The Commission found that Ms. Smith, a broker associate with a real estate brokerage firm, acted as a buyer or dual agent in 14 transactions in which she sold lots in an unapproved subdivision. The Commission also found that Ms. Smith drafted addenda between the buyers and sellers in some of these transactions without first being licensed by the North Carolina State Bar as an attorney.

DONALD E. SPAKE (Hickory) – The Commission accepted the permanent voluntary surrender of the broker license of Mr. Spake effective February 12, 2009. The Commission dismissed without prejudice allegations that Mr. Spake violated provisions of the Real Estate License Law and Commission rules. Mr. Spake neither admitted nor denied misconduct.

JEANETTE G. SYPRZAK (Asheville) – By Consent, the Commission reprimanded Ms. Syprzak effective March 1, 2009. The Commission found that Ms. Syprzak listed a house with a septic system that had previously been the subject of a neighbor's complaint to the county health department, the health inspector claimed he orally informed Ms. Syprzak of a potential issue to be addressed if the home were ever occupied, and the owners' letter was presented to purchasers stating there had been a complaint but that the inspector found no problem with the system. The Commission found that the system failed after closing and was draining onto the neighbor's property. The Commission noted that Ms. Syprzak and her firm paid approximately \$13,500 in compensation to the purchasers for the expense in connecting the system to the City Sewer to resolve a civil dispute. Ms. Syprzak neither admitted nor denied misconduct but did

not contest the maintenance of this case based on these facts and considerations.

TIMESHARES LIQUIDATORS, LLC (Weaverville) – By Consent, the Commission revoked the firm license of Timeshares Liquidators effective April 16, 2009. The Commission found that Timeshares Liquidators induced timeshare owners in numerous transactions to convey their interests with the promise of payment and then, in some cases, failed to make payments to the sellers. The Commission also found that, in other transactions, Timeshares Liquidators induced purchasers to pay money in return for receiving timeshare interests and then, in some cases, did not transfer to or procure timeshares for the purchasers.

TIMOTHY CLINE REALTY, INC. (Charlotte) – By Consent, the Commission permanently revoked the firm license of Timothy Cline Realty effective March 31, 2009. The Commission found that Timothy Cline Realty acted as buyer agent in numerous transactions in which it promised buyer rebates outside closing and received commissions and bonuses on closing state-

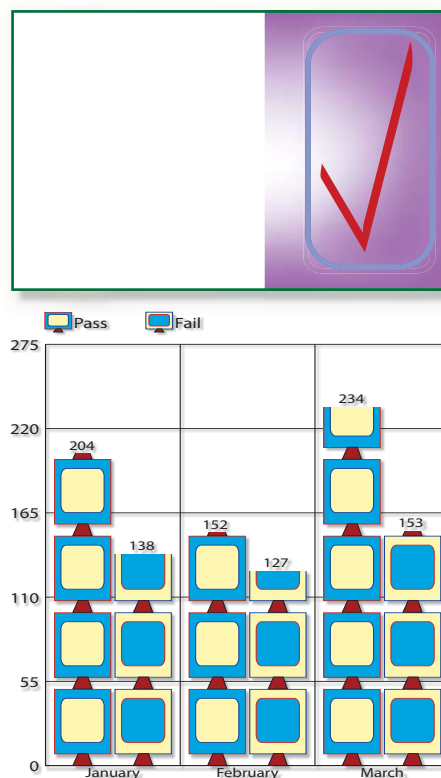
ments that it rebated to buyers outside closing without disclosure to the lender in the transactions.

TOWNSEND PROPERTY GROUP, LLC (Monroe) – The Commission permanently revoked the firm license of Townsend Property Group effective March 9, 2009. The Commission found that Townsend Property Group received \$58,000 from an investor to use for earnest money deposits and failed to account for or to remit the money when requested by the investor, failed to deposit and maintain the funds in an account designated trust or escrow, converted the investor's funds for personal use, failed to answer four letters of inquiry from the Commission, and failed to supply records to the Commission about its handling of the investor's funds when requested to do so.

ROBERT C. TOWNSEND (Naples, FL) – The Commission permanently revoked the broker license of Mr. Townsend effective March 9, 2009. The Commission found that Mr. Townsend, qualifying broker and broker-in-charge of his own firm, received \$58,000 from an investor to use for earnest money deposits and failed to account for or to remit the money when requested by the investor, failed to deposit and maintain the funds in an account designated trust or escrow, and as broker-in-charge failed to ensure the proper maintenance of a firm trust or escrow account. The Commission also found that Mr. Townsend converted the investor's funds for his personal use, failed to answer four letters of inquiry from the Commission, and failed to supply records to the Commission about his handling of the investor's funds when requested to do so.

WILLIAM KARL TROTH (Wilmington) – The Commission accepted the voluntary surrender of the broker license of Mr. Troth for a period of six months effective February 11, 2009. The Commission dismissed without prejudice allegations that Mr. Troth violated provisions of the Real Estate Li-

(See **Disciplinary Action**, page 16)



DISCIPLINARY ACTION

(Continued from page 15)

cense Law and Commission rules. Mr. Troth neither admitted nor denied misconduct.

NATHANIEL A. WALKER (Fayetteville) – By Consent, the Commission revoked the broker license of Mr. Walker effective August 28, 2008. The Commission found that Mr. Walker, acting as a buyer agent, received \$138,000 from a buyer as purchase money for a house and lot, did not maintain the money in a trust account, and was unable to account for or remit the money when the buyer's transaction closed. The Commission also found that Mr. Walker converted a significant portion of the money to his own use and fabricated bank statements and other records of his trust account transactions to conceal his conversion of the money from the Commission.

JOSEPH CARL WALLACE (Fayetteville) – The Commission revoked the broker license of Mr. Wallace effective March 9, 2009. The Commission found that Mr. Wallace was convicted in 2008 of three counts of altering an automobile title, and one count of altering an automobile title and once count of obtaining a driver's license by fraud. These offenses occurred in 2004 and 2005. The Commission also found that Mr. Wallace replied only once to multiple Letters of Inquiry from the Commission and failed to provide the Commission with a full and fair disclosure of all of the information requested.

TRAVIS L. WESTRY (Raleigh) – By Consent, the Commission revoked the broker license of Mr. Westry effective April 16, 2009. The Commission found that Mr. Westry failed to confirm that a buyer he was assisting in the purchase of a home received a Ram Jack assessment report Mr. Westry had ordered and which recommended the installation of additional structural supports for a total cost of almost \$5,000 and that, after the sale, the property

North Carolina Real
Estate Commission
P. O. Box 17100
Raleigh, NC 27619-7100

PRSRT STD
U.S. POSTAGE
PAID
HICKORY, NC
PERMIT NO. 104

93,000 copies of this public document were printed at a cost of .161 per copy

developed major interior and exterior structural problems. The Commission also found that Mr. Westry purchased five homes in a five-month period and financed the purchases with loans that specified that the homes would be owner-occupied.

RONALD DUANE WHITE (Litleton) – By Consent, the Commission revoked the broker license of Mr. White effective February 1, 2009. The Commission found that in August 2008 Mr. White pled guilty in United States District Court to one count of *Bank Fraud*, was sentenced to 24 months in federal prison to be followed by a term of three years of supervised probation and ordered to pay \$2,442,048.63 in restitution to Branch Banking and Trust Company.

Safety Tip #10 - PRACTICE VEHICLE SAFETY

- *Always have your keys with you*
- *Keep your doors locked at all times*
- *Park in a well-lit area*
- *Don't get blocked in*
- *Beware of dead-end streets*
- *Keep your vehicle in good running condition*
- *Consider using separate vehicles*
- *Be alert to your surroundings*

*Reprinted from the North Carolina
Real Estate Agent Safety Guide.*